

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

ROBERT TROHA and FREDERICK BIGNALL)	
on behalf of themselves and all others)	
similarly situated,)	
)	
Plaintiff,)	
vs.)	
)	Civil Action No. 05-191-E
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES

Pursuant to the Preliminary Scheduling Order, counsel for the parties submit the following
Joint Rule 26(f) Discovery Plan:

1. Identification of counsel:

Counsel for Plaintiffs

David A. Cohen
The Cullen Law Firm
1101 30th St., N.W., Suite 300
Washington D.C. 20007
Tel (202) 944-8600
Fax (202) 944-8611
Email: DAC@cullenlaw.com

Counsel for Defendant

Kristine S. Tardiff
U.S. Department of Justice
Environment & Natural Resources Div.
53 Pleasant St., 4th Floor
Concord, NH 03301
Tel (603) 230-2583
Fax (603) 225-1577
Email: kristine.tardiff@usdoj.gov

- 2. Nature of the Case:** Plaintiffs bring this case as a proposed class action under 28 U.S.C. § 1346(a)(2) (the “Little Tucker Act”) seeking compensation for the alleged taking of their property interests by the United States through the issuance of a Notice of Interim Trail Use by the U.S. Surface Transportation Board pursuant to the National Trail System Act, 16 U.S.C. § 1241 et seq.
- 3. Rule 26(f) Conference:** A Rule 26(f) conference was held by telephone on September 7, 2005. Counsel for Plaintiffs and Defendant participated in the conference.
- 4. Date of Rule 16 Initial Scheduling Conference:** The Initial Scheduling Conference

(counsel to participate by telephone) is scheduled for October 14, 2005 at 8:30 a.m.

5. **Anticipated Dispositive Motions Under Rule 12:** None
6. **Alternative Dispute Resolution:** If liability is established, the parties believe that ADR may be advisable on the issue of damages.
7. **Changes in Rule 26(a) Disclosures:** None
8. **Subjects on which discovery may be needed:** The parties agree that discovery may be needed on the issues of title, abandonment and damages.
9. **Set forth dates for the following:**
 - a. **26(a) Disclosures:** September 30, 2005
 - b. **Joinder of additional parties:** December 15, 2005
 - c. **Pleadings to be amended:** December 15, 2005
 - d. **Fact discovery completed (liability only)** January 17, 2006
 - e. **Phases or limitations on discovery:** The parties agree that discovery should be bifurcated between liability and damages. The following deadlines are for liability-related discovery.
 - f. **Plaintiffs' expert reports (liability)** January 31, 2006
 - g. **Depositions of Plaintiffs' expert completed** February 28, 2006
 - h. **Defendant's expert reports (liability)** January 31, 2006
 - i. **Depositions of Defendant's experts completed** February 28, 2006
 - j. **Third party expert reports** N/A
 - k. **Deposition of third party experts** N/A
10. **Changes to limitations on discovery** None
11. **Special needs for electronic discovery** None
12. **Post-Discovery Status Conference Deadlines** N/A

13. Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):

The parties agree that Plaintiffs should be required to file their motion for class certification no later than December 20, 2005, or, if the parties are able to reach a stipulation class certification, that stipulation will be filed on or before December 20, 2005.

14. Appointment of special master: Not needed at this time

15. Did parties fail to agree on any subject of this Report? No

16. Have the parties considered the possibility of settlement and describe the nature of that consideration: The parties have discussed the possibility of settlement. The parties agree that there is no possibility of settlement until liability is determined.

Respectfully submitted,

Dated: September 22, 2005

s/David A. Cohen

DAVID A. COHEN
PA Bar I.D. No. 54342
Counsel of Record for Plaintiffs

THE CULLEN LAW FIRM
1101 30th Street, N.W.
Suite 300
Washington, D.C. 20007
TEL: (202) 944-8600
FAX: (202) 944-8611

Dated: September 22, 2005

KELLY A. JOHNSON

Acting Assistant Attorney General
Environment & Natural Resources Division

s/Kristine S. Tardiff

KRISTINE S. TARDIFF
Bar Identification No. NH10058
Counsel of Record for Defendant

U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
53 Pleasant Street, 4th Floor
Concord, NH 03301
TEL: (603) 230-2583
FAX: (603) 225-1577